

TITLE 2. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM NOTICE OF PROPOSED REGULATORY ACTIONS

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to add section 565.5 entitled "Fees for Actuarial Valuations" to Article 4 in Title 2 of the California Code of Regulations. This proposed regulatory action pertains to actuarial valuations prepared by CalPERS for public agencies considering participation in CalPERS or public agencies considering amendment of their existing CalPERS contracts.

II. WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on May 17, 2004. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via facsimile at (916) 326-3379; e-mail at marilyn_clark@calpers.ca.gov or mailed to the following address:

Marilyn Clark, Regulations Coordinator
California Public Employees' Retirement System
400 P Street, Room 1120
P.O. Box 942702
Sacramento, California 94229-2702
Telephone: (916) 326-3007

III. PUBLIC HEARING

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the CalPERS Benefits and Program Administration Committee:

June 15, 2004
9:00 a.m.
California Public Employees' Retirement System
400 P Street
Sacramento, California 95814

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

V. AUTHORITY AND REFERENCE

The CalPERS Board of Administration (Board) has general authority to take regulatory action under Government Code section 20121. The Board has specific authority to adopt proposed sections 565.5 under Government Code Section 20463. This action would implement, interpret and make specific Government Code section 20463.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Government Code section 20463, subdivision (d) authorizes the Board to establish limits on the number of actuarial valuations that CalPERS will provide for each contract and to set the fees, if any, that will be assessed for each valuation provided.

Proposed section 565.5 provides that actuarial valuation fees for public agency contract amendments or for the establishment of new agency contracts shall reflect the cost to the system for preparing the valuation and that such fees shall be set from time to time by the Board.

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to public agencies considering participation in PERS or public agencies considering amendment of their existing contract.

VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: The proposed regulatory action does not impose a mandate on local agencies or school districts.

B. COST OR SAVINGS TO ANY STATE AGENCY: The proposed regulatory action does not impact costs or savings for any state agency.

C. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT: The proposed regulatory action does not impact costs or savings for any

local agency or school district, such that costs would qualify for reimbursement under Government Code section 17500 et seq.

- D. NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES: The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
 - E. COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE: The proposed regulatory action does not impact any federal funding to the state.
 - F. ADVERSE ECONOMIC IMPACT: CalPERS has made an initial determination that the proposed regulatory actions will not have a significant statewide adverse economic impact directly affecting businesses including the ability of business in California to compete with business in other states.
 - G. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES: CalPERS is not aware of any cost impacts that a representative private person, or business would necessarily incur in reasonable compliance with the proposed action.
 - H. IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA: The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
 - I. EFFECT ON HOUSING COSTS: The proposed regulatory action has no significant effect on housing costs.
- IX. CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

William Kasirye
Actuarial and Employer Services Division
California Public Employees' Retirement System
P.O. Box 942709
Sacramento, California 94229-2709

Telephone: (916) 331-4232
Fax: (916) 341-2744
E-mail: william_kasirye@calpers.ca.gov

Please direct requests concerning processing of this regulatory action to Marilyn Clark, Regulations Coordinator, at the address shown above, or Barbara Galli at (916) 558-4098.

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Marilyn Clark, Regulation Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' web site at www.calpers.ca.gov under Members, About CalPERS, Proposed Regulatory Actions.

XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED REGULATION

The Board may, on its own motion or at the recommendation of any interested person, modify the text of the proposed regulation after the public comment period has closed. It may adopt section 565.5 as modified if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.

PROPOSED REGULATORY ACTION BY CALPERS

Adoption Of Title 2, Section 565.5

§565.5. Actuarial Valuation Fees

Actuarial valuations for public agency contract amendments or the establishment of new public agency contracts with the System shall be prepared at the request of the governing body of a public agency or an employee organization that represents employees of the public agency upon agreement to pay a fee to the system reflecting the cost to the System for preparing the valuation. Such fees shall be set from time to time by the Board.

NOTE: Authority cited: Sections 20121 and 20463, Government Code.
Reference: Section 20463, Government Code.

INITIAL STATEMENT OF REASONS

Adoption of Section 565.5 – Fees for Actuarial Valuations

Description of Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address: CalPERS' actuarial staff regularly prepare actuarial valuations for public agencies who are considering amending their contracts, or entering into new contracts, with CalPERS for retirement benefits. CalPERS also prepares similar actuarial valuations for employee organizations representing individuals who are employed by public agencies that contract with, or are considering contracting with, CalPERS for retirement benefits. From late 1990 through the end of 2002, CalPERS charged \$200 for each amendment valuation and \$700 for each new agency valuation. Public agencies with existing CalPERS contracts were not charged for the first amendment valuation for each employee category (police, fire or miscellaneous) in each fiscal year. Employee organizations could request amendment valuations, and were subject to the same \$200 fee, but were charged for all amendment valuations.

The adoption of Government Code section 20463, which expressed the principle that employers and employee organizations should be treated equally with respect to fees for actuarial valuations, prompted CalPERS to review its valuation fees. At its December 2003 meeting, the Board approved criteria for setting and charging equal fees for actuarial valuations performed by CalPERS at the request of public agencies and employee organizations and directed staff to promulgate those criteria as regulations.

Specific Purpose: The proposed regulation is intended to follow the principles set forth in Government Code Section 20463 by establishing criteria for setting and charging fees for actuarial valuations performed by CalPERS at the request of public agencies and employee organizations.

Necessity: The proposed regulation is necessary to codify the criteria for setting and charging fees for actuarial valuations performed by CalPERS and to ensure equal treatment of public agencies and employee organizations when requesting amendment or new contract valuations from CalPERS.

Technical, Theoretical and/or Empirical Studies, Reports or Documents: Not applicable.

Alternatives to the Regulatory Action and CalPERS' Reasons for Rejecting Those Alternatives: CalPERS has considered alternatives to this proposal, and has determined that there is no more effective way to carry out its purpose that would be less burdensome.

Alternatives to the Regulatory Action that Would Lessen any Adverse Impact on Small Businesses: The proposed action has no cost impact on small businesses because it applies only to public agency employee retirement benefits.